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| 10/677,004      | 10/01/2003  | Christina Hsu        | 200208014-1         | 7237             |

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| EXAMINER |
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PHAM, THAI V

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| ART UNIT | PAPER NUMBER |
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2192

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 01/26/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/677,004

Applicant(s)

HSU ET AL.

Examiner

Thai Van Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/03/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Remarks*

1. Applicant's amendment dated on 11/03/2006 responds to the Office Action dated on 08/07/2006, provided in the rejection of claims 1 – 24.

Original claims 1 – 24 remain pending in this application and have been fully reconsidered by Examiner.

2. Applicant's objection to Examiner's note on the definition of "a singleton object" is recorded, but deemed unnecessary because Examiner's note is merely meant to provide clarification for the terminology "a singleton object" as defined in the specification of the application. As Applicant points out, the term "a singleton object" is properly described in the specification and recited in the claims (page 7 of Applicant's Remarks); therefore, Examiner's note which is simply a copy of Applicant's definition of "a singleton object" should be perfectly acceptable.

3. With regards to Applicant's objection to Examiner's interpretation of claim 15 with respect to 35 USC § 112, 6<sup>th</sup> paragraph, Examiner's has fully considered Applicant's argument in light of the disclosure of the specification and concluded that the argument is unpersuasive.

Examiner would like to direct Applicant's attention to **MPEP § 2181 – II**: "The disclosure of the structure (or material or acts) may be implicit or inherent in the specification if it would have been clear to those skilled in the art what structure (or material or acts) corresponds to the means (or step)-plus-function claim limitation. See

Id. at 1380, 53 USPQ2d at 1229; In re Dossel, 115 F.3d 942, 946-47, 42 USPQ2d 1881, 1885 (Fed. Cir. 1997). If there is no disclosure of structure, material or acts for performing the recited function, the claim fails to satisfy the requirements of 35 U.S.C. 112, second paragraph ... ". The structure here refers to physical structure, e.g. physical interconnections and arrangements of integrated components on a printed circuit board (PCB).

The descriptions and related figures of the system in claim 15 are purely software, e.g. MVC. Software structure is not equivalent to physical structure because the software modules, which constitute the structure of the software, are simply organizations and partitions of program instructions that define the logical, not physical, structure of the software. Therefore Examiner still does not consider the specification to be adequate to invoke a 35 USC § 112, 6<sup>th</sup> paragraph interpretation for system of claim 15.

4. With regards to Applicant's objection to Examiner's rejection of claims 1 and 15 with respect to 35 USC § 101, Examiner's has fully considered Applicant's argument and concluded that the argument is unpersuasive.

Examiner would like to direct Applicant's attention to **MPEP § 2106.01 – I**: "Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not

define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized ... Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized ... ".

Claims 1 and 15 are directed to software programs as also pointed out by Applicant (See Applicant's **Remarks** on pages 7 and 10), which fall under the nonstatutory subject matter: computer programs. Therefore, the rejection of claims 1 and 15 with respect to 35 USC § 101 is maintained.

5. The Applicant traverses the 35 USC § 102 rejections in the previous Office Action:

- With respect to the independent claims 1, 8, 15, and 22:

Applicant has argued:

- **Kwong's** portal and portlet are not equivalent to Applicant's "*controller generator that operates to produce a controller*" and "*configurator generator that operates to produce a configurator*", respectively. For example, **Kwong** discloses retrieving a portlet state from an appropriate attribute object (**Kwong**, page 1 –

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paragraph 5), but does not disclose generating the state, i.e., the configurator (See Applicant's **Remarks** on pages 12 and 13).

- **Kwong** does not disclose configuration information used by the controller from a configuration file and such that the configurator generator stores the configuration information for subsequent use (See Applicant's **Remarks** on page 13).

- **Kwong** does not disclose creating a controller that is adapted to receive a request (See Applicant's **Remarks** on page 13).

- **Kwong** does not disclose creating a configurator that loads configuration information (See Applicant's **Remarks** on page 13).

• With respect to the dependent claims 3, 10, 17, and 23:

Applicant has argued:

- **Kwong** does not disclose a singleton object, particularly, *"an object that exists in memory such that only one type of object exists at any time in memory. Once created, a singleton object is not destroyed after use, like most objects, but is kept in memory until accessed again."* (See Applicant's **Remarks** on pages 13 and 14).

- Examiner's interpretation of "a singleton object" and "configurator generator" as a specific portlet is inconsistent since a configurator generator loads data from a configuration file that is stored as a singleton object; Hence, a configurator generator and a singleton object are two distinct entities (See Applicant's **Remarks** on pages 14).

Examiner has fully considered Applicant's arguments and, upon further review of **Kwong's** disclosure, concluded that these arguments are unpersuasive as will be addressed under ***Prior Art's Arguments – Rejections*** section below.

6. The rejection of all claims over prior arts of record in the previous Office Action is maintained in light of the necessitated additional clarifications provided in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Prior Art's Arguments – Rejection***

7. Applicant's argument filed on 11/03/2006, in particular on pages 6 – 15, has been fully considered.

8. Examiner's answers to Applicant's arguments against the previous rejection of independent claims 1, 8, 15, and 22 are included in the following paragraphs numbered 9 – 12.

At an initial matter, Examiner directs Applicant's attention to WebSphere Portal: Portlet Concepts and Guidelines (Chirstoph Steindl, IBM, 2003), a reference being made of record that provides background descriptions for the WebSphere portal and portlet used in arts of record: Building a Portlet within the Model-View-Controller Paradigm Using WebSphere® Portal (Kwong et al., IBM) and Introducing the Portlet Specification (Hepper et al.). The previous rejections of all claims are maintained.

9. Kwong's portal and portlet are not equivalent to Applicant's "*controller generator that operates to produce a controller*" and "*configurator generator that operates to produce a configurator*", respectively. For example, Kwong discloses retrieving a portlet state from an appropriate attribute object (Kwong, page 1 – paragraph 5), but does not disclose generating the state, i.e., the configurator.

A portal disclosed by Kwong is built from one or more portlets (Kwong, page 1 – Introduction). A portal, as well understood by one of ordinary skill in the art, is capable of offering a broad array of resources and services, such as e-mail, forums, search engines, etc. Thus, a portal is a controller generator (Examiner's explanation: a portal can contain different types of portlets and the portlets of a portal can have different configurations. As a result, a portal can be configured to perform different functions and have different behaviors, i.e. controller generator) that is adapted to provide a web application (Examiner's explanation: a portal is also referred to as a Web portal) with a



controller (Examiner's explanation: a specific portal configuration) that receives a request for data from a user and responds to the request by sending information to the user (Examiner's explanation: a portal must inherently be configured by an administrator and furthermore, capable of user interaction).

A portlet disclosed by **Kwong** processes requests and generates dynamic content. A portlet, as well understood by one of ordinary skill in the art, contains two deployment descriptors: one to specify the Web application resources (web.xml) and one to specify the portlet resources (portlet.xml) (see Introducing the Portlet Specification, Part I: page 9 for more details). Thus, a portlet is a configurator generator that is adapted to provide a configurator that loads configuration information for use by the controller from a configuration file and stores the configuration information for subsequent access (Examiner's explanation: a portlet contains several configurators, such as getPortletConfig(), getPortletSettings(), etc. that read configuration parameters from the two deployment descriptors: web.xml and portlet.xml. These parameters are used to configure the portlet and ultimately the portal that is built from the portlet(s). The configuration parameters read from portlet.xml are dynamic, i.e. stored and retrieved as updated (see WebSphere Portal: Portlet Concepts and Guidelines: page 9 for more details)).

Applicant's example of a state retrieval by a portlet from an object attribute as not being equivalent to generating a state, i.e. a configurator recited in the claim, is considered improper by Examiner for the following reasons. The "state" retrieved by a portlet refers to persistent information of a portlet during a user-logon session; and state

retrieval is only one of the functions a portlet implements; Therefore, "a portlet state" is not the same as Applicant's configurator. Furthermore, claims 1, 8, 15, and 22 specifically recite a configurator for loading configuration information; therefore the "state" that Applicant is equating with a configurator is unclear to Examiner and not pertinent to the scope of the claims.

10. **Kwong** does not disclose configuration information used by the controller from a configuration file and such that the configurator generator stores the configuration information for subsequent use (see Examiner's explanation for portlet in paragraph 9 above).

11. **Kwong** does not disclose creating a controller that is adapted to receive a request (see Examiner's explanation for portal in paragraph 9 above).

12. **Kwong** does not disclose creating a configurator that loads configuration information (see Examiner's explanation for portlet in paragraph 9 above).

13. Examiner's answers to Applicant's arguments against the previous rejection of dependent claims 3, 10, 17, and 23 are included in the following paragraphs numbered 14 – 15.

14. **Kwong** does not disclose a singleton object, particularly, *"an object that exists in memory such that only one type of object exists at any time in memory. Once created, a*

*singleton object is not destroyed after use, like most objects, but is kept in memory until accessed again."*

The two deployment descriptors – one to specify the Web application resources (web.xml) and one to specify the portlet resources (portlet.xml) (see Introducing the Portlet Specification, Part I: page 9 for more details) – that are read by a portlet are basically files. Files are unique in memory as specified by their location paths and names. A file exists persistently until is specifically instructed to be deleted. Therefore, the deployment descriptors meet the Applicant's definition a singleton object.

15. Examiner's interpretation of "a singleton object" and "configurator generator" as a specific portlet is inconsistent since a configurator generator loads data from a configuration file that is stored as a singleton object; Hence, a configurator generator and a singleton object are two distinct entities.

Examiner would like to bring to Applicant's attention that in the rejection of claims 3, 10, 17, and 23, although the deployment descriptors of a portlet are singleton objects (See paragraph 14 above), Examiner could also refer to the portlet itself as a singleton object since it also meets Applicant's definition of a singleton object by employing the configurators that read from and write to its associated descriptors which are singleton objects. The descriptors and their associated configurators are parts of a portlet, among other software components.

***Claim Rejections***

16. Claims 1 – 24 stand finally rejected as based on arts of record.

Claims 1 and 15 are rejected under 35 U.S.C. 101.

Claims 1 – 24 are rejected under 35 U.S.C. 102(a) as being anticipated by **Kwong et al.** (*Building a Portlet within the Model-View-Controller Paradigm Using WebSphere® Portal*).

***Examiner's Note***

17. The following non-conventional technical terminologies used in the claim language limit the scope of the claim, which directly or indirectly (by means of a parent claim) refer to the terminologies, to their explicit definitions as disclosed in the application.

-- A singleton object: is an object that exists in memory such that only one type of object exists at any time in memory. Once created, a singleton object is not destroyed after use, like most objects, but is kept in memory until accessed again.

18. The Examiner notes that it appears that the Applicant is attempting to invoke 35 U.S.C. 112, 6<sup>th</sup> paragraph in Claim 15, with the use of means-plus-function language in the claim. As disclosed in the specification of the application, each of the means for performing the steps of the system recited in the claim is constructed by a series of algorithmic steps implemented in software program instructions. Thus, the specification does not provide any specific physical structure for the features that could be read into the claim to limit the scope of the means for the components or steps constituting the

claimed system. Therefore, The Examiner does not consider the specification to be adequate to invoke a 35 U.S.C. 112, 6<sup>th</sup> paragraph interpretation and furthermore, for the purpose of further claim analysis under 35 U.S.C. 102 and 103, The Examiner treats Claim 15 as a computer program containing machine-readable instructions stored on a physical medium for performing the steps recited in the claim.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

19. Claims 1 – 7 and 15 – 21 (see Examiner's Note above) are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.  
-- Claims 1 and 15.

As disclosed in the specification of the application, all components recited in the claim that constitute the claimed system are constructed of software program objects and/or instructions (Figs 1 – 4 and associated text). Thus, the system is considered as software programs system claimed as computer listings, per se, i.e. containing machine-executable instructions; therefore, it is non-statutory according to 35 U.S.C 101. See MPEP 2106.01 (I): "...the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed ...".

For the purpose of further claim analysis under 35 U.S.C. 102 and 103, The Examiner treats both Claims 1 and 15 as a computer program containing machine-readable

instructions stored on a physical medium for performing the method or steps recited in the claim.

-- Claims 2 – 7 and 16 – 21.

The claims fail to remedy the 101 nonstatutory problem of claims 1 and 15, respectively.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

20. Claims 1 – 24 are rejected under 35 U.S.C. 102(a) as being anticipated by **Kwong et al.** (*Building a Portlet within the Model-View-Controller Paradigm Using WebSphere® Portal*).

-- Claims 1, 8, 15, and 22: **Kwong et al.** disclose a software program tangibly stored on a machine readable medium containing computer readable instructions for performing the method of creating web applications, the method comprising:

- creating a controller that receives a request for data from a user and responds to the request by sending information to the user (i.e., a portal and its inherent properties; Page 1); and
- providing a configurator that loads configuration information for use by the controller from a configuration file and stores the configuration information for

subsequent access (i.e., a portlet and its specified deployment descriptors and user attributes; Page 2).

-- Claims 2, 9, and 16: **Kwong** et al. disclose the method of claim 1 (and 8, 15) and further defining the configuration file to be a text properties configuration file (i.e., the deployment descriptors, portlet.xml and web.xml, of a portlet).

-- Claims 3, 10, 17, and 23: **Kwong** et al. disclose the method of claim 1 (and 8, 15, 22) and further adapting the configurator to store the configuration information as a singleton object (i.e., a specific portlet in a portal; Page 2).

-- Claims 4, 11, and 18: **Kwong** et al. disclose the method of claim 1 (and 8, 15) and further defining the configuration information to comprise error handling information (i.e., defect list and error view; Fig. 3, page 4).

-- Claims 5, 12, and 19: **Kwong** et al. disclose the method of claim 1 (and 8, 15) and further defining the configuration information to comprise log processing information (i.e., graphical display of events; Fig. 6, pages 5 – 8).

-- Claims 6, 13, and 20: **Kwong** et al. disclose the method of claim (and 8, 15) and further defining the configuration information to comprise data that is specific to each of a plurality of portals (i.e., a portlet and its associated sub-objects in a specific portal; Fig. 3, page 4).

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-- Claims 7, 14, 21 and 24: **Kwong** et al. disclose the method of claim 1 (and 8, 15, 22) and further adapting the configurator to read the configuration information upon initialization of the controller (i.e., portlet interface initialization, *init()*; Fig. 3, page 4).

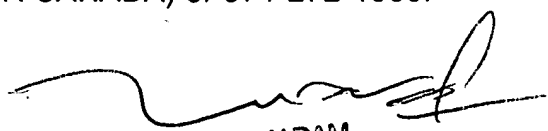
### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Van Pham whose telephone number is (571) 270-1064. The examiner can normally be reached on Monday - Thursday, 8am - 3pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TVP

  
TUAN DAM  
SUPERVISORY PATENT EXAMINER